



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

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March 18, 1997

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Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street N.W.  
Washington, D.C. 20554

VIA FEDERAL EXPRESS

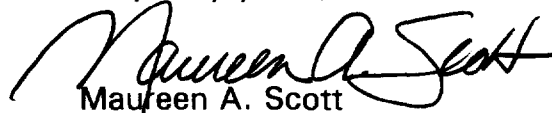
Re: Implementation of the Local Competition Provisions in the  
Telecommunications Act of 1996; CC Docket No. 96-98

Dear Secretary Caton:

Enclosed are an original and seven (7) copies of the Response of the Pennsylvania Public Utility Commission to the Oppositions to its Petition for Expedited Waiver of the Mandatory Ten-Digit Dialing Requirement in Conjunction with Overlay Implementation in the 412 Area Code. Also enclosed are an original and seven (7) copies of the PaPUC's Motion for Leave to File Late-Filed Reply Comments. All parties filing responses to the PaPUC's Petition have been served as indicated on the attached Certificate of Service.

Please do not hesitate to contact the undersigned if you have any questions regarding this matter.

Very truly yours,

  
Maureen A. Scott  
Assistant Counsel

Encl.

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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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MAR 19 1997

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In the Matter of )  
 )  
Implementation of the Local ) CC Docket No. 96-98  
Competition Provisions in the )  
Telecommunications Act of 1996 )

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**MOTION FOR LEAVE TO FILE  
LATE-FILED REPLY COMMENTS**

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Pursuant to 47 C.F.R. Section 1.46, the Pennsylvania Public Utility Commission (PaPUC) requests leave to file late-filed reply comments in the above-captioned matter with regard to the PaPUC's Petition for Expedited Waiver of the Mandatory Ten-Digit Dialing Requirement in Conjunction with Overlay Implementation in the 412 Area Code. In support thereof, the PaPUC avers as follows:

1. The PaPUC is the state agency responsible for the regulation of all public utilities, including telecommunications carriers, within the Commonwealth of Pennsylvania.
2. On February 18, 1997, the PaPUC filed a Petition for Expedited Waiver of the Mandatory Ten-Digit Dialing Requirement in Conjunction with Overlay Implementation in the 412 Area Code.
3. Through Public Notice dated February 25, 1997, the FCC requested comment on the PaPUC's Petition by March 7, 1997, and reply comment by March 12, 1997.
4. The PaPUC, situated in Harrisburg, PA, was unable in the two business days

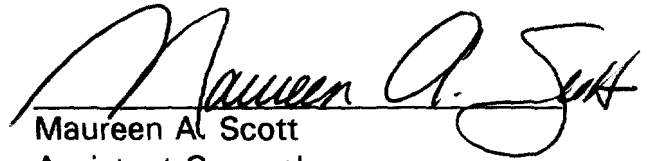
(not including Saturday and Sunday) allotted for reply comments to obtain the comments filed by other parties, gather the necessary data to refute the arguments made by those parties, and prepare and file its response with the Commission. The PaPUC was still receiving the comments of other parties as late as yesterday, Monday, March 17, 1997.

5. Additionally, counsel for the PaPUC responsible for this matter was ill for several days causing further unforeseen delay in the PaPUC's ability to timely meet the FCC's response deadline. The PaPUC does not have the vast resources of many of the private litigants to this proceeding and responded as quickly as possible, given the other pressing matters before it as a result of its responsibilities under the Telecommunications Act of 1996 and other intervening events.

6. No party is likely to be prejudiced by the PaPUC's late-filed reply comments since all interested parties have already had an opportunity to comment, and the PaPUC is merely responding to the comments submitted by other parties. Further, the PaPUC's response will provide additional information which is important to the FCC's consideration and ultimate resolution of the issues presented in this case.

**WHEREFORE**, in light of the foregoing, the PaPUC respectfully moves that it be permitted to submit the attached late-filed reply comments in response to the comments and oppositions filed to the PaPUC's Petition for expedited waiver of the mandatory ten-digit dialing requirement in conjunction with overlay implementation in the 412 area code.

Respectfully submitted,



Maureen A. Scott  
Assistant Counsel

Frank B. Wilmarth  
Deputy Chief Counsel

John F. Povilaitis  
Chief Counsel

Attorneys for the Pennsylvania  
Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17102-3265

Dated: March 18, 1997.

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Implementation of the Local	)	CC Docket No. 96-98
Competition Provisions in the	)	
Telecommunications Act of 1996	)	

**RESPONSE OF THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
TO THE OPPOSITIONS TO ITS PETITION FOR  
EXPEDITED WAIVER OF THE MANDATORY TEN-DIGIT DIALING REQUIREMENT  
IN CONJUNCTION WITH OVERLAY IMPLEMENTATION IN THE 412 AREA CODE**

**I. Introduction.**

On February 18, 1997, the Pennsylvania Public Utility Commission (PaPUC) filed a Petition for Expedited Waiver of the Mandatory Ten-Digit Dialing Requirement of 47 C.F.R. § 52.19(c)(3)(ii) for the 412 NPA Overlay (Petition). The FCC published notice of the PaPUC's Petition on February 25, 1997.<sup>1</sup> In response, approximately 20 parties filed comments either supporting or opposing the PaPUC's Petition. The PaPUC submits this response to the oppositions filed by Sprint Corporation (Sprint), Worldcom, Inc. (Worldcom), MCI Telecommunications Corporation (MCI), AT&T Corporation (AT&T), Teleport Communications Group, Inc. (Teleport or TCG) and U S WEST, Inc. (U S WEST).

**II. Background.**

On June 20, 1996, the PaPUC adopted an overlay for the 412 area code. One

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<sup>1</sup>See February 25, 1997 FCC Public Notice, DA 97-405.

of the requirements of the overlay is that all LECs are required to continue the use of seven-digit dialing within each area code to the extent technically feasible and for as long as it remains feasible. The PaPUC also found that "[t]en-digit dialing may become permissive with institution of the overlay code, but should not become mandatory until necessary." 412 Overlay Order at p. 16.<sup>2</sup> At the time the PaPUC adopted its 412 Overlay Order, it was in full compliance with FCC standards as set forth in the Ameritech decision.<sup>3</sup> The PaPUC's 412 Overlay Order was entered on September 12, 1996.

On August 8, 1996, the FCC in its Second Report and Order, imposed additional conditions on overlay use by State commissions, including mandatory ten-digit dialing within and between NPAs. The PaPUC filed a Petition for Reconsideration of, inter alia, the mandatory ten-digit dialing requirement contained in the Second Report and Order on October 7, 1996. The PaPUC subsequently filed comments on November 20, 1996, supporting the jurisdictional arguments made by the New York State Department of Public Service (NYSDPS) with regard to local dialing issues, including mandatory ten-digit dialing.<sup>4</sup>

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<sup>2</sup>See Petition of NPA Relief Coordinator Re: 412 Area Code Relief Plan, Docket No. P-000961027, (Order entered September 12, 1996) (412 Overlay Order).

<sup>3</sup>Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, 10 FCC Rcd 4596 (1995)(Ameritech).

<sup>4</sup>Several parties attempt to attribute significance to the fact that the PaPUC waited until after issuance of the Commission's Second Report and Order, in which to enter its 412 Overlay Order. The only reason the PaPUC waited to enter the 412 Overlay Order was because of the uncertainty created by the Telecommunications Act of 1996 as to the states' continued jurisdiction over area code relief issues. The PaPUC was not, as some parties imply, attempting to bypass or ignore FCC

At the state level, as several commenters pointed out, at least six petitions for reconsideration were filed with the PaPUC. On October 11, 1996, the County of Allegheny filed a petition for review with the Commonwealth Court of Pennsylvania which deprived the PaPUC of jurisdiction at that point to act further on the pending petitions for reconsideration.<sup>5</sup> MCI filed a cross petition on October 25, 1996, which was subsequently consolidated with the County of Allegheny case on November 4, 1996. This case is now in the briefing stage, with oral argument scheduled for April 9, 1997.

On February 13, 1997, TCG Pittsburgh filed an Emergency Motion to Modify Order which requests that the PaPUC suspend the 412 Overlay Order's implementation pending resolution of the State court appeals and pending petitions for reconsideration. The PaPUC intends to act upon the TCG Motion at an upcoming public meeting.

### **III. Discussion.**

#### **A. The Record Before the PaPUC Showed that Customers Preferred to Retain Seven-Digit Dialing.**

One simple fact has been lost in all of the opposition comments filed with the FCC. The primary purpose behind the seven-digit dialing requirement imposed by the PaPUC was to ensure continued customer satisfaction and convenience. The seven-

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requirements. The PaPUC believed that through the reconsideration process of the Second Report and Order, the conflict could be resolved before 412 overlay implementation began on May 1, 1997.

<sup>5</sup>See County of Allegheny v. Pennsylvania Public Utility Commission, No. 2745 C.D. 1996, et al.

digit dialing requirement was adopted by the PaPUC because the comments before the PaPUC in the state proceeding indicated that customers placed a high value on maintaining their existing telephone numbers and dialing patterns. See 412 Overlay Order at p. 14 ("Since ten-digit dialing is the overlay feature that customers may object to, all LECs should continue the use of seven-digit dialing within the area code to the extent technically feasible and for as long as it remains feasible.") The PaPUC continues to believe, based upon the comments received in the case before it, that most customers in the Pittsburgh area (approximately 2 million) would prefer to retain seven-digit dialing for as long as possible.

On the other hand, a mandatory 10-digit dialing requirement will cause permanent inconvenience to customers. The Commission should reject the anecdotal arguments of U S WEST that as a general matter customers adapt to dialing patterns fairly quickly, or that over time, the cumulative national confusion for customers will be lessened or alleviated by moving to a ubiquitous 10-digit dialing model. See U S WEST Reply Comments, pps. 3-4. U S WEST provides no support whatsoever, other than a vague quote "based upon our experience", for its assertions. Additionally, one of the primary reasons that the FCC delegated states' continued authority over area code exhaust issues, was because of the significant local interest involved with such matters. See Second Report and Order at para. 283. U S WEST is attempting to resurrect the same old "national interest" issues that the Commission obviously rejected in favor of state oversight and local input. The uncontroverted evidence before the PaPUC was that customers in the 412 market prefer to retain seven-digit



dialing where and for as long as possible.<sup>6</sup>

Moreover, based upon the record before it, the PaPUC did not find any significant adverse competitive impacts resulting from imposition of a seven-digit dialing requirement in the 412 area code. The adverse competitive impacts identified by the FCC in its Second Report and Order and by the parties opposing the PaPUC's Petition for Expedited Waiver in this case, are significantly diminished with interim and permanent number portability. Additionally, the large number of NXXs available to CLECs in the 412 area code ameliorates the competitive concerns identified by the FCC in its Second Report and Order. These factors justify the requested waiver.

**B. Arguments that the Conditions for a Waiver Have Not Been Met Are Meritless.**

Teleport argues that the PaPUC has failed to show that circumstances are present to justify a waiver under current FCC standards contained in WAIT Radio v. FCC and Northeast Cellular Telephone Co. v. FCC.<sup>7</sup> Accord, Reply Comments of U S WEST at p. 1. In those cases, the standard for waiver requires that the petitioner

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<sup>6</sup>The FCC should also reject related arguments by U S WEST, Worldcom and AT&T, that if the Commission grants the PaPUC's request for a waiver in this case more states will follow suit, "basing their evidence in support of their requested relief on particularly parochial facts and circumstances." U S WEST Reply Comments at p. 4. The Commission found state oversight particularly important in these cases because of the strong local interest involved and the desire to take local desires into account. Thus, requests which now ask the FCC to completely ignore or preclude consideration of these "parochial facts and circumstances" are misguided. Additionally, as several parties have noted, the PaPUC along with other state commissions, has requested reconsideration of the mandatory ten-digit dialing requirement which if granted, would eliminate the need for such waivers in the future.

<sup>7</sup>418 F.2d 1153 (D.C.Cir. 1969), cert. denied, 409 U.S. 1027 (1972); 897 F.2d 1164 (D.C.Cir. 1990).

"explain why deviation better serves the public interest and articulate the nature of the special circumstances to prevent discriminatory application and to put future parties on notice as to its operation."<sup>8</sup>

Teleport's arguments to the contrary notwithstanding, the PaPUC has demonstrated that conditions within the 412 area code discussed in more detail below do justify deviation in this instance. These conditions, together with the availability of interim number portability and, soon thereafter, permanent number portability in the Pittsburgh market, severely undercut the FCC's finding in its Second Report and Order that most CLEC customers would be relegated to the new overlay code and alone would be required to dial ten-digits to place most local calls.

The Commission should likewise dismiss the baseless allegations of some parties that a waiver in this instance would "incent" the Bell operating companies to "create numbering resource shortages for the purpose of effecting or making anti-competitive area code changes." See Comments of Worldcom at p. 1. There is absolutely no evidence in the record of this proceeding, nor was there evidence before the PaPUC, which would suggest such an outcome. Any form of area code relief is likely to create some confusion and inconvenience for customers. It is highly unlikely that a Bell operating companies, in this instance Bell Atlantic, would put its own customers through the inconvenience of having to adapt to a new area code in the absence of legitimate need. See generally, Reply Comments of U S WEST.

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<sup>8</sup>Northeast Cellular, 897 F.2d at 116.

**1. Contrary to the Arguments of Some Carriers, Local Dialing Disparity Concerns Are Mitigated Through the Availability of Interim and Permanent Number Portability.**

In the 412 proceeding before the PaPUC, several CLECs, in large part the same carriers now filing comments with the FCC opposing the relief requested by the PaPUC, expressed concern that they would be disadvantaged by the institution of an overlay. After careful consideration of these arguments, the PaPUC rejected them, finding that many of these concerns were mitigated by the availability of interim number portability and the advent of permanent number portability in the not too distant future. See 412 Overlay Order at p. 10 ("Moreover, with number portability, if a customer changes to another service provider, he can keep his existing number.").

Teleport, among others, continues to argue that without mandatory ten-digit dialing throughout the affected area, the inconvenience of ten-digit dialing will be shifted to the customers of the CLECs only. This is not true. With number portability, existing customers of the ILEC who switch service providers, can keep their existing telephone numbers. Moreover, many new customers of ILECs as well as CLECs will be assigned a new area code and subject to ten-digit dialing. Further, as the NYSDPS pointed out in its Petition for Reconsideration of the Second Report and Order, there is no dialing disparity where "all customers, regardless of carrier, would dial the same number of digits to place comparable calls (7-digits within their area code, 10-digits between area codes)." NYSDPS Petition for Reconsideration at p. 7.

In its Opposition to the PaPUC's Petition for Expedited Waiver, MCI argues that notwithstanding the availability of number portability, the PaPUC "ignores the fact

that a significant portion of new entrants' customers will be served by new telephone numbers, as opposed to existing numbers that are also ported." MCI Opposition at p. 2. In support of this proposition, MCI goes on to state that "...many consumers prefer to test a new entrant's services by augmenting their existing service with additional lines from the new entrant, rather than changing all of their existing telephone numbers." MCI Opposition at pps. 2-3. The PaPUC was presented with no evidence of this phenomenon during the proceeding before it; and not surprisingly MCI presents no statistical evidence to support its claims before the FCC. Thus, the FCC should disregard MCI's claims that customers will "test" a new provider's services by first subscribing to additional lines (which could not then be ported) because they are purely anecdotal in nature.

Teleport counters that interim number portability is not an adequate solution because it is an inferior service and has many disadvantages including "longer call set-up times, incumbent access to competitors' proprietary information, complicated resolution of customer complaints, increased potential for call blocking, and substantial costs to new entrants." Teleport Opposition at p. 5; Accord, AT&T Opposition at p. 4 ("[I]nterim portability methodologies will impair 'the quality, reliability, and convenience of telecommunications services' offered by new entrants into local markets.") While PaPUC recognizes that the various technologies used to implement interim number portability are not perfect, it has always been recognized that these forms of service provider portability are "interim" or "stop-gap" measures intended for use only until permanent number portability becomes available. In

Pennsylvania, interim number portability has been available and successfully used in several markets to date. The PaPUC is not aware of any complaints to date regarding the service.

The Commission must balance concerns of this nature which are temporary in effect (until permanent number portability can be implemented) with the additional costs on carriers and the permanent inconvenience for customers that a mandatory ten-digit dialing requirement would impose. We agree with the NYSDPS that this "would unnecessarily burden all of these consumers with dialing additional digits when placing calls and will force carriers to invest in more switching equipment to handle the additional holding time occasioned by dialing 10 instead of just 7 digits." See NYSDPS Petition for Reconsideration of the Commission's Second Report and Order, p. 8.

Others argue that since the FCC's Number Portability Order was adopted prior to the Second Report and Order, its decision in the Second Report and Order necessarily took into account the fact that both interim and permanent number portability would be available. See Opposition of Teleport, p. 5 ("The sequence of these orders demonstrates that the Commission concluded that the availability of interim number portability did not adequately address dialing parity concerns raised by overlay plans.") However, it is not at all clear from the text of the Second Report and Order that the FCC did in fact consider the impact that service provider number portability would have upon the alleged dialing disparity concerns identified in the Second Report and Order. Therefore, the PaPUC believes that it is justified in raising

this issue in its instant Waiver Petition, given the availability of interim number portability in the 412 area code.

**2. Arguments That Conditions in the 412 Area Code Do Not Justify a Waiver Are Wrong.**

Not coincidentally, many of the parties advancing arguments against the PaPUC's Petition for Expedited Waiver were the exact same parties opposing an overlay before the PaPUC. For instance, MCI, Teleport, AT&T, Worldcom and Sprint all take issue with the data provided by the PaPUC to support its assertions with regard to waiver of the mandatory ten-digit dialing requirement in the 412 area code. Most, if not all, of their arguments are without merit and/or fail to tell the whole story.

First, AT&T argues that the information provided by the PaPUC is too speculative to form the basis of a FCC waiver. AT&T states in this regard:

The PUC nowhere reveals how many CLECs and other competitors it projects will seek NXX codes in the 412 NPA, at what rate they will enter, or how quickly they are predicted to gain market share. Nor does the petition indicate what it expects will be the pace of deployment of technologies such as wireless devices, fax machines, and point-of-sale terminals. In fact, the PUC does not even disclose the year in which it anticipates that NXX codes in the 412 NPA will reach exhaust, much less provide sufficient information to support that assumption.

AT&T Opposition at p. 5.

The PaPUC provided the FCC with all of the relevant information it possessed at the time it filed its Petition for Expedited Waiver. Since then, the PaPUC has obtained additional information from the Code Administrator on NXX assignments in the 412 area code which has also been recently supplied to the FCC. Additionally,

the PaPUC has attempted to gather more data on the number of potential CLECs in the Pittsburgh market and the likely demand for NXXs in the future in support of its Petition for Waiver.

Based upon the most recent information contained in the PaPUC's databases, the PaPUC has to date approved the applications of approximately 15 CLECs. Not all of these CLECs intend to provide service on a state-wide basis, however. Further, it is anticipated that many of these providers will initially offer service on a resale basis.

The number of carriers that will initially provide service on a resale basis is critical. Resale carriers do not obtain their own separate NXX codes. Rather, they obtain their NXX codes from the ILEC's existing supply. Therefore, the NXX needs of all resale carriers will be satisfied from the ILEC's existing supply; rather than through independent requests of the Code Administrator.

Based upon the applications on file, the PaPUC is aware of only six approved facilities-based providers that may offer service in the Pittsburgh area. Two of these CLECs, including TCG and MCI Metro, already have large blocks of NXXs in the 412 area code. No NXX requests have been made to date by the other four providers.

Current code assignment procedures require that requests for codes be made within six months of the date the CLEC actually needs the codes. Based upon this requirement, it is not anticipated that any facilities-based CLECs, other than MCI or Teleport, intend to be up and operational in the Pittsburgh area before the fourth quarter of 1997. Consequently, if current trends continue, permanent number portability may actually be available in the Pittsburgh market before most CLECs are

actually offering service to customers. Under the FCC's recent First Memorandum Opinion and Order on Reconsideration in Docket No. 95-116, the scheduled implementation date for the Pittsburgh MSA is now June 30, 1998.

Second, MCI argues that the prohibition against new entrants serving more than one rate center per NXX puts it at a significant disadvantage and that this will prevent its customers from using seven-digit dialing in many instances. MCI Opposition at pps. 3-4. The rate center prohibition stems in part from a previous PaPUC ruling in the MFS Phase II proceeding which essentially required CLECs to utilize the existing ILEC network for service provision, billing, etc. The only alternative is rate center consolidation which would require a reengineering and reconfiguration of the existing land-line network -- a costly and time-consuming process which even if implemented could not possibly be completed to accommodate relief in the 412 area code.

Furthermore, MCI in its Opposition appears to grossly overstate the impact of the rate center limitation on its ability to serve the Pittsburgh market. See MCI Opposition at p. 4. ("Thus, regardless of the number of NXXs assigned to MCI in the 412 area code, MCI will still only be able to serve a limited percentage of the market area because it can only provide service in one rate center.") Likewise, Teleport argues that because of the rate center restriction, a CLEC could have a large quantity of numbers, but still may not be able to serve customers because they are located in a different rate center. Teleport Opposition at p. 7.

As the Central Office NXX Code Utilization Summary recently provided to the



PaPUC by the Code Administrator shows, MCI and TCG have more NXX assignments in the 412 area code, particularly in the metropolitan Pittsburgh area than any other facilities-based CLEC authorized to provide local exchange service in Pennsylvania. Each has hundreds to thousands of 412 numbers covering various Pittsburgh city rate centers; a supply which greatly exceeds their need at this point in time. If either eventually expands to other rate centers, they may obtain more 412 NXX's via jeopardy rationing and to fill in any gaps using interim number portability until permanent number portability fully eliminates any preference for using 412 numbers. Therefore, the scenario MCI portrays in its Opposition that it will be limited to serving 10% of the 412 market is a gross overstatement. See MCI Opposition at p. 4. As already discussed, based upon existing assignments, MCI can now serve much more than 10% of the Pittsburgh market.

Third, AT&T argues that ILECs will likely have "warehoused" a significant quantity of numbers in the old NPA, and will be able to utilize these "warehoused" numbers to the disadvantage of their competitors. AT&T Opposition at p. 3; see also Teleport Opposition at p. 10 ("Bell Atlantic benefits from its ability to warehouse numbers and from number churn, whereby numbers from the existing area code area returned for their use."). Under existing code assignment and jeopardy procedures, ILECs are permitted to request and utilize assigned NXXs to fill existing demand only. Of significance, and a point which severely undercuts AT&T's argument is the fact that assigned ILEC NXXs will be used not only to meet the ILEC's needs, but the needs of CLEC resellers, such as AT&T itself. Unlike facilities-based CLECs which

must obtain their own NXX assignments, resellers obtain their NXX codes directly from the ILEC and its remaining supply.

Teleport raises similar arguments that Bell Atlantic will have a readily available supply of numbers in the existing area code for the "foreseeable future". It goes on to argue that CLECs will have to be assigning numbers from the overlay code immediately and with regularity. Teleport Opposition at p. 10. However, in that it is anticipated that most CLECs will provide service initially on a resale basis, the majority of CLECs will be obtaining NXXs from the ILECs directly. Consequently, Teleport's arguments are meritless.

All in all, the PaPUC continues to believe that the availability of interim number portability and soon permanent number portability, together with the current status of number assignments in the 412 area code, justify a waiver of the mandatory ten-digit dialing requirement; and that ultimately the Commission should on reconsideration of its Second Report and Order eliminate the mandatory ten-digit dialing requirement altogether.

**C. Contrary to the Arguments of Some, The PaPUC has Not Acted To Bypass Administrative and Judicial Processes.**

The Commission should reject the arguments of a few parties that the PaPUC has acted to somehow contravene the FCC's mandatory ten-digit dialing requirement. See Worldcom Opposition at p. 6. The PaPUC has availed itself of all procedural steps possible to resolve the conflict between its own 412 Overlay Order and the Commission's Second Report and Order. On October 7, 1996, the PaPUC filed a Petition for Reconsideration of the mandatory ten-digit dialing requirement contained

in the FCC's Second Report and Order. On November 20, 1996, the PaPUC filed a response supporting the NYSDPS' Petition for Reconsideration of the mandatory ten-digit dialing requirement and the jurisdictional arguments raised therein. Finally, when it became apparent to the PaPUC that action on its Petition for Reconsideration would likely not be forthcoming before overlay implementation in the 412 area code, the PaPUC filed the instant request for waiver. The PaPUC could not have taken any other conceivable action before the FCC to attempt to resolve this conflict.

Moreover, the PaPUC does not have the vast resources of many of the private litigants in this proceeding. As the FCC is aware and can appreciate, implementation of the various provisions of the Telecommunications Act in a timely fashion has put a tremendous strain on the PaPUC's resources. Given all of the issues presently facing state commissions under the Telecommunications Act, the PaPUC acted as expeditiously as possible on this matter.

In this regard, Teleport seriously misrepresents the PaPUC's position to be "that it is running out of time to comply with the Commission's rule while implementing its 412 overlay plan." Teleport Comments at p. 9. The PaPUC's position has always been that if the overlay implementation date of May 1, 1997 is to be met, steps must be taken immediately to resolve the conflict which exists between the FCC's Second Report and Order and the PaPUC's 412 Overlay Order.

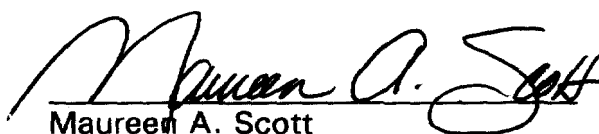
If the Commission determines that a waiver is not appropriate, which the PaPUC does not believe the Commission should find based upon the facts presented, the PaPUC will take whatever steps are necessary to bring its 412 Overlay Order into

compliance with the FCC's requirements.<sup>9</sup>

**IV. Conclusion.**

For all of the reasons contained herein, the PaPUC respectfully requests that the FCC grant the PaPUC's Petition for Expedited Waiver of the mandatory ten-digit dialing requirement in conjunction with overlay implementation in the 412 area code.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Maureen A. Scott", is written over a horizontal line.

Maureen A. Scott  
Assistant Counsel

Frank B. Wilmarth  
Deputy Chief Counsel

John F. Povilaitis  
Chief Counsel

Counsel for the Pennsylvania  
Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17102-3265


Dated: March 18, 1997.

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<sup>9</sup>As already stated in its February 18, 1997, Petition for Expedited Waiver, the PaPUC expressly reserves its right to pursue the jurisdictional issues raised in its Petition for Reconsideration and Reply to the Petition for Reconsideration filed by the NYSDPS of the Commission's Second Report and Order.

**CERTIFICATE OF SERVICE**

I, Maureen A. Scott, certify that I have served a copy of the foregoing Response of the Pennsylvania Public Utility Commission to the Oppositions to its Petition for Expedited Waiver of the Mandatory Ten-Digit Dialing Requirement in Conjunction with Overlay Implementation in the 412 Area Code and Motion for Leave to File Late-Filed Reply Comments on all the parties filing responses to the PaPUC's Petition for Expedited Waiver by first class mail, postage prepaid, this 19th day of March, 1997.

A handwritten signature in black ink, reading "Maureen A. Scott". The signature is fluid and cursive, with the first name "Maureen" being the most prominent part.

Maureen A. Scott  
Assistant Counsel

Counsel for the Pennsylvania  
Public Utility Commission

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

**Public Meeting held June 20, 1996**

**Commissioners Present:**

**John M. Quain, Chairman  
Lisa Crutchfield, Vice Chairman  
John Hanger, Dissenting - Statement attached  
David W. Rolka, Dissenting - Statement attached  
Robert K. Bloom**

**Petition of NPA Relief Coordinator  
Re: 412 Area Code Relief Plan**

**Docket No. P-00961027**

**ORDER**

**BY THE COMMISSION:**

In this opinion and order we address the problem of a telephone number shortage in the 412 area code, which is Pittsburgh and the surrounding metropolitan area. The shortage was brought to our attention by a petition filed by Wayne Milby, the NPA Relief Coordinator,<sup>1</sup> on March 8, 1996. In that petition, Mr. Milby stated it is estimated that the available supply of telephone numbers in the 412 area code will be exhausted by June 30, 1997. The letter-petition stated that Commission action is needed by July 1, 1996 to ensure a smooth transition to whatever form of relief is determined appropriate.

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<sup>1</sup> NPA is an acronym for Numbering Plan Area, otherwise known as an area code. An NPA "Relief Coordinator" is an independent party within the Central Office Code Administrator's office who has responsibility for determining how number shortages within an area code will be addressed, through both interim measures and longer-term measures such as new area code assignments.

## **BACKGROUND**

The telecommunications area is filled with a bewildering array of acronyms and jargon, and today there are many competing services and service providers, most of whom depend on access to existing telephone services and may use separate telephone numbers. The burgeoning use of fax machines, computer modems and cellular phones, and competitive providers of traditional services have created unprecedented demand for telephone numbers. While in the long run competition will gradually replace regulation of these services, during the period of transition to competition regulatory oversight remains necessary, as this proceeding demonstrates. Complicating the regulatory view, both the federal government and state utility regulatory agencies have jurisdiction over certain aspects of the telecommunications area. Specifically, in determining what to do about number shortages, both the Federal Communications Commission (FCC) and state commissions have addressed the issues.

Our telephone numbers have ten digits, consisting of a three-digit area code, a three-digit "central office code" and a four-digit "line number." Area codes are administered pursuant to the North American Numbering Plan (NANP) which specifies the ten-digit number format for North American countries, including Mexico and the Caribbean. The "Central Office" or "CO" Code Administrator is the dominant extant telephone service provider in an area; the Code Administrator's office is an independent and impartial organization within the organization. The Administrator has responsibility for compliance

with the NANP in an area and also assigns central office codes, i.e., the first three digits of the seven-digit telephone number, to itself and other carriers.

Any digit may be used for the last places in the full telephone number, thus providing 10,000 phone numbers for each CO code. The three digit CO codes, however, do not use 0 or 1 for the first position (and the second position in some cases) and some combinations are reserved for testing or special purposes such as 911 emergency dialing. There are something fewer than 800 available CO code combinations, therefore slightly fewer than 8 million separate telephone numbers are available within a given area code. Since there are finite numbers for each area code, the solution to number exhaustion is creation of a new area code, allowing another round of CO codes. When necessary to create a new area code (NPA), the questions are which customers in the geographic area served by the original area code will have this new code and how it will be implemented.

The NPA Relief Coordinator (part of the Code Administrator's office) both administers the NPA and institutes steps for relief of number exhaustion. NPA "Code Relief Planning Guidelines," developed on a collaborative basis by the Industry Carriers Compatibility Forum, provide assistance to Coordinators in determining the procedures to follow. These Guidelines envision three ways in which number shortages may be addressed:

- a) There may be a "split" into two or more geographic areas, with a new area code for a given area;



b) There can be a "realignment," with an existing area shrinking and another expanding;

c) There can be an "overlay," with a new area code serving the same area as the old but being used for all new numbers.

The Guidelines require attempted consensus among industry participants, with recourse to the regulatory agencies upon failure of consensus, and the Guidelines describe steps to be followed when a number shortage is expected. The Guidelines also list assumptions, constraints and "planning principles" to be used in this process.

Pursuant to these Guidelines, Mr. Milby, on December 18, 1995, notified almost 200 telecommunications industry members of the anticipated number shortage and informed them of industry meetings to attempt to reach consensus on appropriate resolution. On January 10, 1996, Mr. Milby sent those parties an initial planning document that included four options for relief, consisting of one overlay proposal and three different splits (exhibit "C" to petition). These meetings were held on January 24-25 and February 12, 1996. Two of the split proposals were divided into other options. Twenty-four industry members participated. Petition plan, p.2. These parties narrowed the choices to two splits and one overlay, but could not reach ultimate consensus. Thus, also pursuant to the Guidelines, Mr. Milby submitted to the Commission his letter-petition describing the situation, describing the options, and requesting a rapid decision. Exhibits "E" through "H" to the petition detail the geographic areas and the attributes of the three options.